

2.90.40

Inspection of Public University Records *[Amendments recommended by Administrative Council 09.13.11; approved by Board of Regents 10.10.11]*

- A. Compliance with the NMIPRA: All records of the NMSU Board of Regents shall be open to inspection by the public during normal business hours, and in accordance with the New Mexico Inspection of Public Records Act (NMIPRA). NMSA 1978 § 14-2-1 et seq.; NMSA 1978 § 21-1-16.
1. The university's practice is to respond to public inquiries, including those from employees, governments, the press, and the general public, through an appropriate spokesperson in a prompt and courteous manner.
 2. The university is not obligated to compile or otherwise create or reformat a new record in response to a request for information.
 3. The university shall post, in a conspicuous location in their administrative offices, a notice informing the public of the right to inspect records and the procedures for, and reasonable fees associated with inspecting and copying records. Additionally, notice shall also be posted on the university's web site with contact information for the various public records custodians.
- B. Protection of Confidential Records from Disclosure: Despite the breadth of the NMIPRA, the university shall not permit inspection of information protected from disclosure under an exception within the NMIPRA or other applicable state and federal laws. For example, student records within the meaning of the Family Educational Rights and Privacy Act (FERPA), and medical records covered by the Health Insurance Portability and Accountability Act (HIPAA) will not be disclosed absent consent to release from the student or patient. Requests for inspection will be considered and permitted consistent with the rights of the parties. See also [the university's policy on Institutional Data Security at 2.35.1.2.3](#).
- C. Designation of the University's Records Custodians: The following officials are designated to serve as the records custodians for the types of records listed below.
1. Personnel Records: The Assistant Vice President of Human Resource Services.
 2. Financial and Business Records and Contracts: The NMSU Controller.
 3. Sponsored Projects Records: The Office of the Vice President for Research.
 4. Student Academic Records: The Office of the NMSU Registrar.
 5. Student Nonacademic Records: The Office of the Vice President for Student Affairs and Enrollment Management.
 6. New Mexico Department of Agriculture Business Records: The Office of the Assistant Director/NMDA.
 7. University Archives: The NMSU Archivist.
 8. Real Estate Records: The Director of Real Estate.
 9. Employment Contracts for university president and athletics coaches: The Office of the General Counsel.
- D. Guidelines for Responding to Requests to Inspect Public Information.
1. Definitions:

- a. "Public record" means all documents, papers, letters, books, maps, tapes, photographs, recordings, and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business, whether or not the records are required by law to be created or maintained.
 - b. "Records custodian" means the person responsible for the maintenance, care or keeping of a public body's public records, regardless of whether the records are in that person's actual physical custody and control.
2. Form of Request for Inspection: In accordance with the NMIPRA, requests for information may be made orally or in writing. Inspection of information or documents may be provided in response to an oral request; however, this policy and the procedures required by the NMIPRA apply only to written requests, including email requests.
 - a. Requests for inspection of public information shall identify the name, address and telephone number of the requestor.
 - b. The request shall identify the records sought with reasonable particularity.
 - c. Requests for information submitted electronically shall be considered and treated the same as a written request; i.e. email requests must provide the information listed in subsection 2a. above.
3. NMSU Response to Requests:
 - a. The NMSU employee receiving a request for inspection of public records shall not inquire into the reason for the request.
 - b. The NMSU employee receiving a request for inspection of public records shall immediately forward to the designated records custodian, for action consistent with the NMIPRA.
 - c. The records custodian shall immediately forward a copy of the request to the Office of the General Counsel for guidance and shall not release information covered by the request until instructed to by the Office of the General Counsel.
 - d. The records custodian is responsible for compliance with the NMIPRA and with NMSU policy, including timely correspondence with the requestor. Templates for the response letter required within 3 days from receipt of the request and other sample response letters may be viewed/downloaded at: [Attorney General Guide - Public Records](#).
 - e. Records custodians must respond to a public records request in the same medium in which they received the request; they may also respond in any other medium they deem appropriate. For example, if the request is sent via email, the response must be sent via email. See [2.90.40 \(5\) d](#) below for the applicable time deadlines for responding.
 - f. The records custodian shall assemble the responsive documents. If a public record is available in electronic format and a requester specifically request an electronic copy, the records custodian shall provide the record in electronic format. There is no duty to change or convert the "file format" of the record, however.
 - g. If the requested records requested contain both public and private/confidential information, such as protected personal identifier information as defined in the NMIPRA, it shall be separated by the records custodian prior to the inspection, and the nonexempt information shall be made available for inspection. Additionally, all metadata associated with the exempt information must be removed from the electronic document by utilizing methods or redaction tools that prevent the recovery of the exempt information from a redacted electronic document. In order to protect and preserve the integrity of computer data or the confidentiality of exempt information contained in a database, a partial printout of data containing public records or information may be furnished in lieu of an entire database.
4. Misdirected Requests: Consistent with the NMIPRA, if a request for information is sent to someone who is not the records custodian for the records subject of the request, the office/person receiving the request shall forward it to the proper records custodian, if known, and notify the requestor. The notification to the requestor shall state the reason for the absence of the records from that person or office's custody or control, the location of the requested records and the name

and address of the records custodian.

5. Time Deadlines for Responding to Requests:
 - a. As required by the NMIPRA, upon receipt of a request to inspect public information, the record shall be made available immediately or as soon as practicable under the circumstances.
 - b. If access will not be provided within three business days after the request is delivered to the records custodian, the custodian shall provide a written explanation to the requestor when the records will be made available or when the university will respond.
 - c. The three day period commences when the written request is delivered to the office of the custodian. If the request is delivered via email, the date of delivery shall be the date that the records custodian reasonably should have opened the email. Unless the request is determined to be excessively broad or burdensome, the inspection must be allowed within 15 days from the date the request was received.
 - d. If a custodian determines that the type or nature of a request makes it excessively burdensome or broad, notice may be sent to the requestor, within 15 days from receipt of the request, stating that additional time is needed.
 - e. The requestor may deem the request denied if the custodian does not permit the records to be inspected within a reasonable period of time.
 - f. If a written request is denied, the records custodian shall provide the requestor with a written explanation which a) describes the records sought; b) states the names and titles of the positions of each person responsible for the denial and then mail or deliver to the requestor within 15 days from the date the request was received by the custodian.

6. Inspection of Records/Reasonable Fees: In accordance with the NMIPRA, the following conditions apply to records access and inspection:
 - a. Original records may be inspected on site only, subject to reasonable conditions imposed by the records custodian to protect the integrity of the original records, and to prevent disruption of normal operations.
 - b. No fee shall be charged to allow inspection of public records, if copies are not sought.
 - c. A reasonable fee may be charged for the copying of public records, not to exceed \$1.00 per page 11 x 17 inches or smaller. No fee shall be charged for the cost of determining whether a public record is subject to disclosure.
 - d. When producing records in electronic format, the actual costs associated with downloading copies to a storage device and the actual cost of the storage device may be charged, as well as the actual cost for transmitting the records.
 - e. Advance payment of the reasonable copying fee is required.
 - f. A receipt for payment of the fee shall be provided.